

August 16 2018

To: **United States bankruptcy court**

**Sothorn district of New York**

Attn: **The Hon. James L. Garrity Jr. Esq.**

Re: **15 CV 2696 of the district court and case number 15-1165 (jlg) of the bankruptcy court**

**Initial Claim**

An initial claim has been made against the corporations and myself dated April 7 2015.

This claim or complaint is factually incorrect in so much that:

1. The corporations or entities listed in the claim are incorrect entities.
2. The defendant Amir Orly was not a person in control as described.
3. The employees are claiming period of employment that are actually longer than the period they told me they have been in the USA.
4. Employees were general workers and some at times have assisted in deliveries.
5. All claims in the complaints in respect of the wages are unsubstantiated.
6. The three employees listed on page 5 did not get fired, they have left.
7. "monteroso" has been with the corporation for 6 weeks, left and came back asking for his job back.
8. "Ramirez" has been with the corporation for 6 months
9. In both cases, the employing entity listed is incorrect.
10. Incorrect assumption in respect to Amir's engagement in business are made.
11. Point 26 of the claim is incorrect
12. How did the employees or more to the point their representative reach the conclusion in point 28?
13. Point 31 is false, baseless and in any case irrelevant as the employing entity listed in the claim is incorrect.
14. Point 33 is incorrect and no such figures have ever been produced.
15. Point 34 is factually incorrect and what belief is it based on and by who.

I can go on but from just as shown above this whole claim is factually incorrect, I have been placed in a position of guilty until proven innocent as opposed to being innocent until proven guilty.

The level of inconsistencies in this claim points to a stab in the dark approach by the attorney of the plaintiffs and may be interpreted as an attempt to extort and inflict financial hardship on the incorrect defendant for the purpose of both the plaintiffs and their attorney profiting.

The aggressive nature of the claim points to the fact that the attorney may be canvassing or “farming” or “shopping” for plaintiffs and it appears to be a method in which I simply became a victim of.

### **The employees**

Most small businesses in New York are hanging by a thread since the GFC of 2008.

There are hundreds of empty retail shops and outlets for lease and rent and the city is becoming empty.

These small businesses can no longer afford the costs charged by attorneys and as such end up with either no or insufficient representation, in my case this is no different.

Unlike some plaintiffs and their attorneys, as a small business, we cannot find an attorney that will work on success fee or a percentage of the winnings.

During the period of employment, some of the employees, now plaintiffs, were late to work on regular basis and have on more than one occasion been told that a small business has to rely on its personnel and consistency and reliability is imperative.

Alfredo for example was told that if he keeps being 3 hours late to work two and three times a week, he will not be able to keep his job, he was arrested domestic violence a number of times and kept returning, asking for his job back.

He was offered a job in the kitchen but he declined it and said he makes \$1200.00 a week doing deliveries so he does not wish to be in the kitchen.

He at one stage told me he is staying for over five years because he is making good money.

It has come to my attention that these same plaintiffs together with the same attorney who are claiming against me, have done the same to the other employers they have had and are still doing so.

That points to the fact that these are not victims at all, on the contrary, they pray for victims. Victims such as myself.

They are moving from one business to the next, doing the same as they are doing to me, sending businesses and individuals into bankruptcy while in some cases they may even be collecting social security or public assistance.

One of the plaintiffs in the claim has even returned from Mexico almost immediately prior to the law suit being launched and I now wonder who orchestrated and coordinated that.

How have the plaintiffs been paying their attorney to date, considering their claim of either under or no payment by employers?

Or is there an arrangement in place to fund legal actions which I am not aware of as I could certainly use such arrangement as an unemployed, bankrupt person.

Individually, I was not the owner of the business for the period of time as for in the claim and some of these employees, have never worked for me.

How many times a plaintiff's attorney does gets to amend a claim before the court itself recognises that the attorney is actually “building” the claim as the case progresses?

Why is our legal system allowing for this?

I was a well-liked and respected small business owner when I owned a business and have employed many people over the years, most of which have come to me due to my reputation which has now been destroyed.

I in fact still maintain contact with some of the ones who worked for me over the years, including the ones that are no longer in the USA.

Some of them told me that thanks to me they have saved enough money to go back to their original country and buy a house for the family or educate their children to a level they never dreamed of. And they knew they could always rely on me.

#### **Legal Representation**

I was introduced and referred to Linda Tirelli for the purpose of legal representation. She has insisted on payments prior to providing with a copy of a retainer agreement. The funds for both retainer agreements were provided by my brother from Australia as I have no money.

I could not understand why we had to enter into two retainer agreements considering I am one person dealing with the one attorney.

Linda had all contact details for both myself and my brother and in fact, my brother and Linda had contact at times irrespective of the case.

I have provided Linda with all documents relating to my cases but when I eventually met with her in her office she seemed not to know anything about me or the cases.

For example, she has sent me an email on August 3 2018 in which I was supposed to reply to by July 13 2018.

She has quoted me fees which included certain services and then charged me separately for the service.

I have found her to be intimidating with her communications to me and at times as if I am being extorted but I hope that this is not the case.

Nevertheless, her aggression towards me at any communication be it face to face or by phone was evident. It got to the stage I could not communicate any further and requested that all communications go through my brother.

Most times, any action was a last minute call and with the excuse that I did not reply to her or her colleagues email. Upon checking, in most of these cases, no email has ever been sent. I have also encountered a situation in which an email I sent to her with discovery items together with an internal communication email to her was forwarded to the plaintiff's attorney without her opening it and looking at it which in turn created further complications in my defence.

She failed to appear to court hearings and once sent her colleague who was late to get to the hearing and missed it altogether.

Yet I was being charged for that time.

This colleague was Mr. Ruffo. On one occasion he was to meet me an hour prior to a hearing at the location of the court for discussion but did not appear until 40 minutes after the hearing has started so I was defenceless and on my own.

He spoke to me briefly and once only after that court hearing and it appeared that either him or Linda have never opened my file or looked at any of the information provided.

Linda did not respond to emails from myself or my brother during the whole period of the deposition of the plaintiffs and upon completion did not provide with the scripts until they were separately paid for by my brother, even though that was part of the fee he already paid.

Linda failed to show up for meetings that she has arranged for me and did not advise that she is unable to attend.

She has set up for a meeting in her office in White Plains on a Sunday for me, I drove for an hour to get there and the firm she was with has split and she claimed she did not have

access to my file despite the other partner of the firm confirming she has taken the file with her, which later was found to be true and she had the file at all times.

She then tried to obtain a new retainer agreement and a new retainer fee which she said she will send via certified mail with the reason being she is a new business now.

Linda has advised me that she will no longer represent me in one of the two cases and is now trying to pull out of this one even though in effect she has provided with no or inferior service.

My brother paid her fees and I ask the court to advise me in respect of my ability to obtain a refund for my brother for those fees.

I noticed on some lawyers ratings and review website that this is a consistent behaviour on Linda's part and I am not the only client who suffered from this treatment.

It appears it's a method of money grabbing, rather than service providing and fee for service.

### **Conclusion**

I am a 55 years old person with some health issues which are not currently being attended to due to lack of funds. I have managed to get work for 4 months in the past 3 years and I do not have the funds to hire an attorney.

The bank closed my account a year ago and my wife and I are trying to survive on her income alone.

We had to leave and vacate our \$1700.00 per month rent control apartment in New York and currently don't have a permanent address.

I have less than \$2000.00 worth of assets which are mainly clothes and kitchen utensils as per my previous declaration.

I am of no formal training or qualifications and as such, together with my age bracket, very limited as to employment or income opportunities.

All my legal bills to date have been met by my brother from Australia who is no longer in a position to assist.

I am a bankrupt and believe to be so due to being a victim of circumstances and not due to my own doing.

Sincerely,

Amir Orly

